THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9553 of 2005
and
CONTEMPT CASE No.1393 of 2005

Dated: 28-11-2006

Between:

Smt. Veluvarthi Savitramma.

..... PETITIONER

AND

The District Collector, Viianagaram District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.9553 of 2005

and

CONTEMPT CASE No.1393 of 2005

COMMON ORDER:

The petitioner was assigned land admeasuring Ac.0.47 cents and Acs.4.63 cents in survey Nos.144/1 and 144/4 respectively situated at Kongavanipalem Village, Bhogapuram Mandal in Vizianagaram District, under D form patta dated 28-08-1988. Alleging that the respondents by proceedings/order dated 06-04-2005 resumed the land without due process of law, the writ petition is filed seeking a writ of Mandamus restraining the respondents from taking possession. This Court, while admitting the writ petition on 26-04-2005, passed interim orders in W.P.M.P.No.12483 of 2005 observing that it shall be open to the respondents to take further steps duly following the procedure under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (the Rules, for brevity). Alleging that the order dated 26-04-2005 is flouted, the Contempt Case is filed.

In the counter-affidavit filed by the Joint Collector, Vizianagaram District in the Contempt Case, it is averred that before issuing the impugned proceedings/order dated 06-04-2005, a show cause notice dated 15-03-2005 was issued to the petitioner to show cause as to why the land should not be resumed. She refused to receive the same and therefore, the land was resumed for providing house sites to the families, who suffered during tsunami. The Joint Collector also states that the compensation for the resumed land would be paid in accordance with the Rules. The petitioner has not filed any reply-affidavit to the counter-affidavit filed in the Contempt Case. Therefore, the Contempt Case is misconceived.

Insofar as the prayer in the writ petition is concerned, there cannot be any dispute that it is always open to the Government to resume the assigned land for public purpose. Now that the land has already been resumed, the petitioner can claim compensation by filing appropriate application before the Joint Collector, if not already filed. Be it noted that as held by the Full Bench of seven learned Judges of this Court in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyd v Mekala Pandu** [1], even when the land is resumed from the assignee for public purpose, the principles governing the determination of compensation under the Land Acquisition Act, 1894, are applicable. Therefore, the respondents are bound to determine the compensation in accordance with the decision of the Full Bench. It is brought to the notice of this Court that

against the decision of this Court in **Mekala Pandu**'s case (supra), the Government approached the Supreme Court and the Civil Appeal is pending. Therefore, Mandamus shall issue as above and the same shall be enforceable subject to the decision of the Supreme Court in the appeal filed against the decision in **Mekala Pandu**'s case (supra).

In the result, the Contempt Case is dismissed and the writ petition is disposed of. Mandamus shall issue in terms as above. No costs.

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(**V.V.S.RAO, J**)

28th November, 2006
ghn

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[1] 2004(2) ALD 451 (LB)